PATENT COOPERATION TREATY

PCT

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
4-32743A		
International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/EP 03/11848	24.10.2003	25.10.2002
International Patent Classification (IPC) or both national classification and IPC		
C07D295/18		
Applicant		
NOVARTIS AG et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

   ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

   These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

   - I ☒ Basis of the opinion
   - II ☐ Priority
   - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - IV ☐ Lack of unity of invention
   - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   - VI ☐ Certain documents cited
   - VII ☐ Certain defects in the international application
   - VIII ☐ Certain observations on the international application

Date of submission of the demand	Date of completion of this report
26.04.2004	17.02.2005
Name and mailing address of the international preliminary examining authority:	Authorized Officer
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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/EP 03/11848

I. Basis of the report

1. With regard to the **elements** of the international application *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*:

Description, Pages

1-154 as originally filed

Claims, Numbers

1-8 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

iii. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 6,8

because:

☒ the said international application, or the said claims Nos. 6 (part,Industrial applicability) relate to the following subject matter which does not require an international preliminary examination (specify):

see separate sheet

☒ the description, claims or drawings *(indicate particular elements below)* or said claims Nos. 6 are so unclear that no meaningful opinion could be formed *(specify)*:

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 8

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/ or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	
	No:	Claims	1,5,7
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1,5,7
Industrial applicability (IA)	Yes:	Claims	1-5,7
	No:	Claims	

2. Citations and explanations

see separate sheet

III NON-ESTABLISHMENT

Claim 6 (part) relates to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT.
Furthermore claim 6 lacks a category. It therefore bears an unclarity to such an extend that no meaningful examination can be carried out. Accordingly no opinion will be given on the subject matter of claim 6.

No search has been carried out for claim 8. Accordingly no examination will be carried out with respect to this claim (Rule 66.1e).

V REASONED STATEMENT

1. PRIOR ART

The documents cited in the International Search Report

D1: PATENT ABSTRACTS OF JAPAN vol. 2000, no. 06, 22 September 2000 (2000-09-22) -& JP 2000 086603 A (YOSHITOMI PHARMACEUT IND LTD), 28 March 2000 (2000-03-28)
D2: EP-A-0 209 843 (KANEBO) 28 January 1987 (1987-01-28)

have been considered for the examination procedure.

2. NOVELTY

The subject-matter of the Claims is anticipated by D1. D1 discloses overlapping definitions and an example that falls within said overlap (see general expression, see p. 273,example 76.

Therefore, the claimed subject-matter is considered not to be novel. (Article 33(2) PCT).

3. INVENTIVE STEP

The subject-matter of the novel part Claims appears to fulfil the requirements of Article 33(3) PCT for the following reasons:

The problem of the present application may be seen in the provision of further piperazinyl-propenone derivatives which are useful in the treatment of diseases that involve migration and activation of monocytes and T-cells,including inflammatory diseases.

At the moment no structurally close prior art appears to be available that discloses compounds of the same use.

It is derivable from the description that tests have been carried out that proof the alleged activity.

Accordingly inventive step can be acknowledged.

In the regional phase it might become necessary to name at least one exemplified compound for which a test has been carried out in order to asses whether the generalisation of claim 1 appears to be plausible.